UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,063	05/11/2001	Joshua L. Gottlieb	73485/12448	7754

23380 7590 10/11/2005

TUCKER, ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1475

EXAMINER	
MORGAN, ROBERT W	
ART UNIT	**PAPER NUMBER**
3626	

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/854,063	GOTTLIEB, JOSHUA L.	
	Examiner	Art Unit	
	Robert W. Morgan	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-50 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-50 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,208,973 to Boyer et al. in view of U. S. Patent No. 6,581,204 to DeBusk et al.

As per claim 1, Boyer et al. teaches a method of provisioning and reimbursement for medical equipment and services, comprising the steps of:

--the claimed generating a plan formulary in accordance with attributes of a health care payor is met by the payment system access card used to access the Internet bank's web site to verify patient's eligibility (see: column 12, lines 31-32). In addition, Boyer et al. teaches a data driven rules engine that processes data to determine the first portion of payment to be paid by third party payor (see: column 3, lines 42-46); and

--the claimed communicating order information of said patient order to said one or more medical entities via a communication network to facilitate processing of said patient order is met by the Internet (14, Fig. 1) (see: column 7, lines 11-21).

Boyer et al. teaches a purchase transaction that includes the product and/or a service code using to determine the value of the first portion of the purchase to be paid by the third party payor (see: column 3, lines 46-51).

Boyer et al. fails to teach the claimed subscribing one or more medical entities to process a patient order of a patient in accordance with said plan formulary, which said patient order comprises select one of the medical equipment and service.

DeBusk et al. teaches an information management system that uses a TracePak™ system whereby hospital, dealers, and the distributor build unitized supply delivery bundles (see: column 18, lines 21-26). In addition, DeBusk et al. teaches that when a procedure is scheduled at a customer's healthcare facility, an order for the supplies are assembled in a container and then shipped to the distributor for addition supplies of its supply bundles, which is then shipped to the user (see: column 18, lines 31-40).

One of ordinary skill in the art at the time the invention was made would have found it obvious to include the information management system for delivery of medical equipment or services as taught by DeBusk et al. within the adjudication system for reimbursement of a medical product or service as taught by Boyer et al. with the motivation of integrating a system for use with an healthcare institutions for managing, optimizing and analyzing the use of resources within that institution (see: DeBusk et al.: column 1, lines 54-56).

As per claim 2, Boyer et al. teaches the claimed communication network in the step of communicating is global communication packet-switched network. This limitation is met by the Internet (14, Fig. 1) (see: column 7, lines 11-21).

As per claim 3, Boyer et al. teaches the claimed global communication packet-switched network is the Internet. This limitation is met by the Internet (14, Fig. 1) (see: column 7, lines 11-21).

As per claim 4, Boyer et al. teaches the claimed communication network in the step

of communicating is a circuit-switched network. This feature is met by the invention, which need not be Internet based but may be accessed by a direct telephone lines suggesting communications lines through telephone system such as circuit-switched network (see: column 17, lines 19-23).

As per claim 5, Boyer et al. teaches the claimed plan formulary of said health care payor in the step of generating contains eligibility files which define eligibility of said select ones of the medical equipment and services of said patient order which are to be provided to said patient. This limitation is met by the payment system access card used to access the Internet bank's web site to verify patient's eligibility (see: column 12, lines 31-32).

As per claim 6, Boyer et al. teaches the claimed case manager reviews said eligibility of said select ones of the medical equipment and services of said patient order which are to be provided to said patient when predetermined criteria are met. This feature is met by a member of the healthcare provider's administrative staff, who may log onto the Internet bank's web site to verify eligibility (see: column 12, lines 39-41).

As per claim 7, Boyer et al. teaches a purchase transaction that includes the product and/or a service code using to determine the value of the first portion of the purchase to be paid by the third party payor (see: column 3, lines 46-51).

Boyer et al. fails to teach the claimed first delivery mode which delivers said select ones of the medical equipment and services directly to said patient, and a second delivery mode which delivers said select ones of the medical equipment and services first to a local provider, which said local provider then delivers said select ones of the medical equipment and services to said patient.

DeBusk et al. teaches an information management system that uses a TracePak™ system whereby hospital, dealers, and the distributor build unitized supply delivery bundles (see: column 18, lines 21-26). In addition, DeBusk et al. teaches that when a procedure is scheduled at a customer's healthcare facility, an order for the supplies are assembled in a container and then shipped to the distributor for addition supplies of its supply bundles, which is then shipped to the user (see: column 18, lines 31-40).

The obviousness of combining the teachings of DeBusk et al. within the system as taught by Boyer et al. are discussed in the rejection of claim 1, and incorporated herein.

As per claim 8, DeBusk et al. teaches the claimed each of the medical equipment and services are associated with either said first delivery mode or second delivery mode in accordance with associated delivery information contained in said plan formulary. This limitation is met when a procedure is scheduled at a customer's healthcare facility, an order for the supplies are assembled in a container and then shipped to the distributor for addition supplies of its supply bundles, which is then shipped to the user (see: column 18, lines 31-40).

As per claim 9, DeBusk et al. teaches the claimed first delivery mode is associated with a distribution/logistics partner entity of said one or more medical entities in the step of subscribing which provides distribution logistics for delivery of said select ones of the medical equipment and services to said patient and said local provider. This limitation is met when a procedure is scheduled at a customer's healthcare facility, an order for the supplies are assembled in a container and then shipped to the distributor for addition supplies of its supply bundles, which is then shipped to the user (see: column 18, lines 31-40).

As per claim 10, DeBusk et al. teaches the claimed second delivery mode is associated with a provider network manager entity of said one or more medical entities in the step of subscribing, which said provider network manager entity provides selection of an appropriate local provider for delivery thereto of said select ones of the medical equipment and services ordered by said patient. This limitation is met when a procedure is scheduled at a customer's healthcare facility, an order for the supplies are assembled in a container and then shipped to the distributor for addition supplies of its supply bundles, which is then shipped to the user (see: column 18, lines 31-40).

As per claim 11, Boyer et al. teaches the claimed system business center disposed on said communication network electronically places said patient order in response to receiving patient information from a local provider, said patient order placed electronically, in the step of communicating, to a manufacturer entity of said one or more medical entities disposed on said communication network, which said manufacturer entity manufactures medical equipment. This limitation is met by the Internet merchant bank (16, Fig. 1) that operates as a conventional merchant bank for credit card processing (see: column 7, lines 11-22).

As per claim 12, Boyer et al. teaches the claimed communication network is a global communication packet-switched network such that said a system business center perform an e-commerce transaction when placing said patient order to said manufacturing entity. This feature is met by the Internet (14, Fig. 1) connected to the Internet merchant bank (16, Fig. 1) that operates as a conventional merchant bank for credit card processing (see: column 7, lines 11-22).

As per claim 13, Boyer et al. teaches the claimed provider network manager receives said patient order via an electronic mail message transmitted over said communication network which

is the Internet. This limitation is met by the exchange of information using various protocols such as Electronic Data Interchange, which is exchanging bundles of data between two companies via e-mail (see: column 10, lines 53-67). In addition, Boyer et al. teaches that a member of a healthcare provider's administrative staff may log onto the Internet bank's web site to verify eligibility (see: column 12, lines 39-41).

As per claim 14, Boyer et al. teaches the claimed order information in the step of communicating is communicated to said one or more medical entities from a system business center disposed on said communication network. This feature is met by the Internet bank (16, Fig. 1) that exchanges data with third party payor (24, Fig. 1) and patient's employer at step 108 using various protocols such as Electronic Data Interchange (see: column 10, lines 53-67).

As per claim 15, Boyer et al. teaches the claimed business center stores said order information of said patient order and all costs associated therewith. This limitation is met by the Internet bank (16, Fig. 1) that includes a direct connection to the adjudication engine (22, Fig. 2A), which uses a rule processor (30, Fig. 2A) to determine whether healthcare transactions are reimbursed and stored in the Clinical Pathways Database (24, Fig. 2A) (see: column 7, lines 11-39 and column 8, lines 7-55).

As per claim 16, Boyer et al. teaches the claimed costs are submitted to said health care payor via said communication network in the step of communicating on a periodic basis for reimbursement to said one or more medical entities which provide said select ones of the medical equipment and services. This feature is met by the Internet bank (16, Fig. 1) that exchanges data with third party payor (24, Fig. 1) and patient's employer at step 108 in a nightly batch (see: column 10, lines 53-67).

As per claim 17, Boyer et al. teaches the claimed communication network is the Internet. This limitation is met by the Internet (14, Fig. 1) (see: column 7, lines 11-21).

As per claim 18, Boyer et al. teaches the claimed reimbursement is via said system business center. This limitation is met by the Internet merchant bank (16, Fig. 1) that operates as a conventional merchant bank for credit card processing (see: column 7, lines 11-22). In addition, Boyer et al. teaches that the Internet bank (16, Fig. 1) has a direct connection to the adjudication engine (22, Fig. 2A), which uses a rule processor (30, Fig. 2A) to determine whether healthcare transactions are reimbursed (see: column 8, lines 7-23).

As per claims 19-22, Boyer et al. teaches that the Internet bank (16, Fig. 1) has a direct connection to the adjudication engine (22, Fig. 2A), which uses a rule processor (30, Fig. 2A) to determine whether healthcare transactions are reimbursed (see: column 8, lines 7-23).

Boyer et al. fails to teach selecting one of said one or more medical entities who is a local provider, provider network manager, medical equipment manufacturer and a distribution/logistics partner.

DeBusk et al. teaches an information management system that uses a TracePak™ system whereby hospital, dealers, and the distributor build unitized supply delivery bundles (see: column 18, lines 21-26).

The motivation of combining the teachings of DeBusk et al. within the teachings of Boyer et al. are discussed in the rejection of claim 1, and incorporated herein.

As per claim 23, DeBusk et al. teaches the claimed order information of said patient order is accessible by said one or more medical entities via said communication network in the step of communicating. This limitation is met by when a procedure is scheduled at a customer's

healthcare facility, an order for the supplies are assembled in a container and then shipped to the distributor for addition supplies of its supply bundles, which is then shipped to the user (see: column 18, lines 31-40).

As per claims 24-46, they are rejected for same reasons set forth in claims 1-22.

As per claim 47, Boyer et al. teaches a method of medical equipment provisioning and reimbursement, comprising the steps of:

--the claimed providing for interface and interaction with a payor to establish a plan formulary is met by the payment system access card used to access the Internet bank's web site to verify patient's eligibility (see: column 12, lines 31-32). In addition, Boyer et al. teaches a data driven rules engine that processes data to determine the first portion of payment to be paid by third party payor (see: column 3, lines 42-46);

--the claimed providing a data connection to a pre-selected plan is met by the payment system access card used to access the Internet bank's web site to verify patient's eligibility (see: column 12, lines 31-32). In addition, Boyer et al. teaches a data driven rules engine that processes data to determine the first portion of payment to be paid by third party payor (see: column 3, lines 42-46); and

--the claimed establishing, via a pre-selected protocol, a connection to a payor-eligibility file to establish front-end eligibility is met by the payment system access card used to access the Internet bank's web site to verify patient's eligibility (see: column 12, lines 31-32). In addition, Boyer et al. teaches a data driven rules engine that processes data to determine the first portion of payment to be paid by third party payor (see: column 3, lines 42-46).

Boyer et al. fails to teach:

--the claimed communicating an order interface to allow for differentiation as to which items/products/services are direct to a consumer and which require a local provider;

--the claimed directing an order, as it is placed, to an associated distribution/logistics partner;

--the claimed receiving an electronic order that has been pre-authorized for patient eligibility and claims eligibility;

--the claimed directed a received order to an associated case manager selected from an associated electronic catalogue;

--the claimed rerouting a selected case manager back into the system to an associated distribution partner pre-selected in accordance with a specified plan formulary;

--the claimed acknowledging an order to an associated local provider; and

--the claimed accepting an order via said local provider that suitably selects from the routing an ordered item to a selected delivery site.

DeBusk et al. teaches an information management system that uses a TracePak™ system whereby hospital, dealers, and the distributor build unitized supply delivery bundles (see: column 18, lines 21-26). In addition, DeBusk et al. teaches that when a procedure is scheduled at a customer's healthcare facility, an order for the supplies are assembled in a container and then shipped to the distributor for addition supplies of its supply bundles, which is then shipped to the user (see: column 18, lines 31-40).

The motivation of combining the teachings of DeBusk et al. within the teachings as taught by Boyer et al. are discussed in the rejection of claim 1, and incorporated herein.

As per claim 48, Boyer et al. teaches the claimed the step of periodically providing super bill to said payor. This feature is met by the Internet bank (16, Fig. 1) that exchanges data with third party payor (24, Fig. 1) and patient's employer at step 108 in a nightly batch (see: column 10, lines 53-67).

As per claim 49, Boyer et al. teaches the claimed step of selectively providing real-time access of selected historical and active information relating to the order through a linking database (see: column 3, lines 19-25).

As per claim 50, Boyer et al. teaches a method of medical equipment provisioning and reimbursement, comprising the steps of:

--the claimed developing a plan formulary according to requirements of a payor is met by the payment system access card used to access the Internet bank's web site to verify patient's eligibility (see: column 12, lines 31-32). In addition, Boyer et al. teaches a data driven rules engine that processes data to determine the first portion of payment to be paid by third party payor (see: column 3, lines 42-46);

--the claimed interfacing said plan formulary with eligibility files of said payor via a global communication network to establish eligibility of products and services of a patient in accordance with said requirements of said plan formulary is met by the payment system access card used to access the Internet bank's web site to verify patient's eligibility (see: column 12, lines 31-32). In addition, Boyer et al. teaches a data driven rules engine that processes data to determine the first portion of payment to be paid by third party payor (see: column 3, lines 42-46);

--the claimed determining eligibility of said patient and said patient order in accordance with said eligibility file and said requirements of said plan formulary is met by the payment system access card used to access the Internet bank's web site to verify patient's eligibility (see: column 12, lines 31-32);

--the claimed ordering said patient order of product and/or services via a system business center disposed on said global communication network is met by the Internet merchant bank (16, Fig. 1) that operates as a conventional merchant bank for credit card processing (see: column 7, lines 11-22); and

--the claimed reimbursement said local provider fee to said local provider from said system business center in response to said system business center obtaining reimbursement of said local provider fee from said payor the Internet bank (16, Fig. 1) has a direct connection to the adjudication engine (22, Fig. 2A), which uses a rule processor (30, Fig. 2A) to determine whether healthcare transactions are reimbursed (see: column 8, lines 7-23). In addition, Boyer et al. teaches a data driven rules engine that processes data to determine the first portion of payment to be paid by third party payor (see: column 3, lines 42-46).

Boyer et al. teaches an Internet merchant bank (16, Fig. 1) that operates as a conventional merchant bank for credit card processing (see: column 7, lines 11-22). In addition, Boyer et al. teaches that the Internet bank (16, Fig. 1) has a direct connection to the adjudication engine (22, Fig. 2A), which uses a rule processor (30, Fig. 2A) to determine whether healthcare transactions are reimbursed (see: column 8, lines 7-23).

Boyer et al. fails to teach:

--the claimed receiving a patient order of products and/or services via said global communication network; and

--the claimed delivering said patient order to said patient via a local provider for a local provider fee.

DeBusk et al. teaches an information management system that uses a TracePak™ system whereby hospital, dealers, and the distributor build unitized supply delivery bundles (see: column 18, lines 21-26). In addition, DeBusk et al. teaches that when a procedure is scheduled at a customer's healthcare facility, an order for the supplies are assembled in a container and then shipped to the distributor for addition supplies of its supply bundles, which is then shipped to the user (see: column 18, lines 31-40).

The motivation of combining the teachings of DeBusk et al. within the teachings as taught by Boyer et al. are discussed in the rejection of claim 1, and incorporated herein.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art (2001/0034618) Kessler et al. teaches a system, method and computer program product for health care payment and compliance.

In related art (6,879,959) Chapman et al. discloses a method of adjudicating a medical claim includes providing a requirement for a fist claim and a second claim and receiving a medical claim for a medical procedure.

In related art (5,704,844) Tarter et al. shows a computerized method and system for financing health care service providers, especially pharmacies, by evaluating and purchasing their accounts receivables.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RWM
rwm

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600